

South Dakota

SECTION 504 / ADA

*Guidelines for Educators
and Administrators*

<http://www.state.sd.us/deca>
Department of Education
700 Governors Drive
Pierre, SD 57501-2291



Utah State UNIVERSITY

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SOUTH DAKOTA
DEPARTMENT OF EDUCATION

NOTICE OF NONDISCRIMINATION

It is the policy of the South Dakota Department of Education that no person shall, on the basis of race, sex, color, national origin, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

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INTRODUCTION

The purpose of these guidelines is to provide guidance to South Dakota school staff regarding obligations under Section 504 of the Vocational Rehabilitation Act. These same obligations are required by Title II of the Americans with Disabilities Act (ADA). **These guidelines address Subparts D and E of the Section 504 regulations.**

Purpose

Section 504 was implemented to prevent discrimination against individuals with disabilities in federally funded programs. Section 504 of the Rehabilitation Act was enacted in 1973. These federal regulations were implemented in 1977, and have seven sections:

Subpart A	General Provisions
Subpart B	Employment Practices
Subpart C	Program Accessibility
Subpart D	Preschool, Elementary, and Secondary Education Requirements
Subpart E	Postsecondary Education Requirements
Subpart F	Health, Welfare, and Social Services
Subpart G	Procedures

"Handicapped individuals" will hereafter be referred to as "individuals with disabilities" in order to be consistent with current educational terminology.

For many years, the main area of enforcement of Section 504 has been employment issues for individuals with disabilities. However, within the last several years, the Office for Civil Rights (OCR) has become more active in the provisions of Section 504 regarding the education of students with disabilities.

Requirement

The 504 statute prohibits discrimination against any individuals with disabilities by public schools receiving federal financial assistance.

SECTION 504/ ADA EXAMPLES OF DISCRIMINATION

The following are some examples of how schools could discriminate against individuals with disabilities:

1. A student with a disability is denied recognition as an honor roll student because one class is in the resource room.
2. A student is expelled from school for misbehavior that is related to his/her disability.
3. The school refuses to provide bus transportation that is as short in duration (within reason) as provided to student without disabilities.
4. The school refuses to allow a student with a disability the opportunity to audition for athletic teams or other extracurricular activities.
5. The school refuses to dispense medication to a student who needs it to benefit from education.
6. The high school counselor fails to provide information about the special provisions of college board examinations to students with disabilities.
7. The school refuses to provide a modified adaptive physical education program for a student who is obese and cannot participate in regular physical education.
8. The school does not provide an interpreter for a parent to attend a school meeting regarding his/her student.
9. The school does not provide an interpreter for a parent who is deaf to attend a school meeting regarding his/her student.
10. Students with disabilities are denied access to extracurricular activities.

ACRONYMS/DEFINITIONS

The following are commonly used acronyms and definitions used in Section 504/ADA and special education.

ADA — Americans with Disabilities Act

ADAAG — Americans with Disabilities Act Accessibility Guidelines

ADD — Attention Deficit Disorder

ADHD — Attention Deficit Hyperactivity Disorder

AG — Annual Goal

AP — Accommodation Plan

AYP — Annual Yearly Progress

CD — Cognitive Delay

CFR — Code of Federal Regulations

CIMFS — Continuous Improvement Focused Monitoring System

DD — Developmental Disabilities

DNR — Do Not Resuscitate

DOE — Department of Education

ED — Emotionally Disturbed

ESY — Extended School Year

FAPE — Free Appropriate Public Education

FERPA — Family Educational Rights and Privacy Act

HI — Hearing Impaired

IDEA — Individuals with Disabilities Education Act—Special Education

IEP — Individualized Education Program

IFSP — Individualized Family Service Plan

LEA — Local Education Agency

LRE — Least Restrictive Environment

LD — Learning Disability

MPRRC — Mountain Plains Regional Resource Center

NCLBA — No Child Left Behind Act

OCR — Office for Civil Rights

OHI — Other Health Impaired

OIEP — Office of Indian Education Programs

OSEP — Office of Special Education Programs

OT — Occupational Therapy

Part B — Special Education for School-Aged Students

Part C — Special Education for Infants and Toddlers Birth through Two Years

PT — Physical Therapy

SAT — Student Assistance Team

SEA — State Education Agency

Section 619 — Special Education for Three to Five Year Olds

TAT — Teacher Assistance Team

TTY — A Telecommunication Device for the Deaf (Teletypewriter)

VI — Visually Impaired

504 — Section 504 of the Rehabilitation Act

DEFINITIONS

The following are definitions that will be used in this manual.

ACCOMMODATIONS — Adaptations made by classroom teacher(s) and other school staff to enable the students to benefit from their educational program. In some cases, a Section 504 plan should be developed outlining accommodations.

ADA ACCESSIBILITY GUIDELINES (ADAAG) — Standards used to meet Section 504/ADA accessibility requirements for the design, construction, and alteration of buildings.

AMERICANS WITH DISABILITIES ACT (ADA) — A civil rights law that prohibits discrimination against persons with disabilities in the areas of accessibility, employment, public services, public accommodations, transportation, and communication.

BARRIER-FREE ENVIRONMENT — A school environment that contains no obstacles to accessibility and usability by students and other individuals with disabilities. Barriers can be physical and nonphysical.

CONSENT — Written parent permission before initial evaluation and initial education placement.

CONTAGIOUS DISEASES PROTECTED UNDER 504 — Contagious diseases are those that can be transmitted from person to person. Examples are diseases such as AIDS, HIV, and tuberculosis.

FREE APPROPRIATE PUBLIC EDUCATION (FAPE) — Related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of nondisabled persons are met.

INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT, (IDEA) — Federal special education law and regulations.

MAJOR LIFE ACTIVITY — Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

OFFICE FOR CIVIL RIGHTS (OCR) — This federal agency has three primary responsibilities: investigating complaints, conducting compliance reviews, and providing technical assistance. There are 10 regional offices located throughout the United States.

PHYSICAL OR MENTAL IMPAIRMENT — (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive;

genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or physical disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; drug addiction; and alcoholism.

PROGRAM ACCESSIBILITY — The school will ensure programs and activities are accessible to and usable by persons with disabilities. In many instances, programs and activities may be made accessible through slight modifications and adjustments in procedures, practices, and policies. In others, building renovation or construction may be required. Structural change is required only where program accessibility cannot be achieved effectively through other means.

PROGRAM OR ACTIVITY — In the context of Section 504/ADA, this includes all operations of State and local agencies that receive federal funds. This includes colleges, universities, and/or school districts.

PUBLIC ENTITY — Any school, organization, agency, or office that receives federal funding and is therefore, obligated to follow Section 504/ADA requirements.

PUBLIC NOTICE — The school is required to provide public notice and internal notice (i.e., to staff, individuals with disabilities, and students) stating it does not discriminate on the basis of a disability.

QUALIFIED STUDENT— Any student who has a physical or mental impairment that substantially limits one or more major life activities and impacts education.

STUDENT ASSISTANCE TEAM — A group of school staff knowledgeable about the student who work together recommending accommodations to help the student succeed in his/her general education program. This is sometimes referred to as a pre-referral process. Every effort should be made to keep the student in the general education program. A referral is made for an evaluation after all efforts have failed.

SECTION 504 — The Vocational Rehabilitation Act of 1973 that guarantees specific rights in federally funded programs and activities to people who qualify as disabled. Section 504 states, “No otherwise qualified disabled individual in the United States... shall, solely by reason of a disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

SECTION 504/ADA COORDINATOR — The school employing 15 or more persons must assign a person to coordinate compliance with Section 504 regulations. It is recommended that all schools appoint a 504/ADA coordinator. It is recommended that the same individual serve as the Americans with Disabilities Act Coordinator and be a general educator.

SECTION 504 CASE MANAGER — This is usually the primary school staff member providing accommodations for a specific student. Case managers could include counselors, school nurses, and general education teachers. The case manager maintains the Section 504 student file.

SELF-EVALUATION — The Americans with Disabilities Act requires that federal fund recipients evaluate their programs, physical accessibility, and employment practices to determine the extent to which programs and activities require modification to ensure full participation by students with disabilities. These evaluations should be revisited annually by the Section 504/ADA Coordinator.

TITLE I (NCLBA) — Provides financial assistance to States and eligible agencies to deliver supplemental services to at-risk students.

TRANSITION PLAN — If a school determines that structural modifications are necessary to meet Section 504/ADA program accessibility requirements, the school must develop a plan specifying the steps necessary to complete such changes and the time frame for completion.

OVERVIEW

Section 504/ADA is a civil rights statute aimed at discrimination against individuals with disabilities. Like other statutes of Title VI (race) and Title IX (gender), Section 504/ADA focuses on discrimination based on disability. All programs or activities of the school are covered by Section 504/ADA obligations.

There is no State or federal funding provided to assist in complying with Section 504. All costs are the obligation of the general school budget. Many schools have established a Section 504 line item in their general fund budget to cover necessary accommodations for individuals with disabilities.

ELIGIBILITY

Section 504 regulations have several areas that are particularly important for schools: Subpart B—employment practices, Subpart C—program accessibility, and Subparts D and E—requirements for preschool, elementary, secondary, and postsecondary education. **These guidelines will focus on Subparts D and E.**

SUMMARY OF SUBPARTS

SUBPART A: GENERAL PROVISIONS

This part of the regulations outlines the nondiscriminatory responsibilities of schools that receive federal funds or are a public entity. No person, on the basis of a disability, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program that benefits from federal funding or is a public entity.

SUBPART B: EMPLOYMENT PRACTICES

No qualified person shall, on the basis of his/her disability, be subjected to discrimination in employment by any program or activity that receives federal funds or is a public entity.

The school must make reasonable accommodations for employees with known physical and mental impairments unless the accommodation would impose an undue hardship on the operation of the school's program. Examples of reasonable accommodations would include making facilities accessible to and usable by persons with disabilities, job restructuring, part-time or modified work schedules, and acquisition or modification of equipment or devices.

SUBPART C: PROGRAM ACCESSIBILITY

No individual with a disability shall be denied the benefits of, be excluded from participation in, or be otherwise subjected to discrimination under any program or activity because facilities are inaccessible or unusable. Building and program accessibility is applicable to any individual with disabilities accessing any activities or programs in that school building.

The regulation contains two standards to be used in determining whether programs and activities are accessible to individuals with disabilities. One standard deals with “existing” facilities; the other deals with “new” construction. The term “existing facility” means the facility was in existence or in the process of construction before June 3, 1977, the effective date of the regulation. The term “new construction” means groundbreaking that took place on or after the effective date of the regulation.

Leased facilities (mobile units) that are leased or constructed with federal funds are required to meet the standards of new construction. Other leased units are required to meet the standards of existing facilities.

The standard for a facility existing before June 3, 1977, for 504 or January 26, 1992, for ADA requires that federally assisted programs or activities operated in that facility must, when viewed in their entirety, be readily accessible. *This standard does not require that every facility or part be accessible, so long as the program or activity as a whole is accessible.* Thus, recipients need not make structural changes to facilities that existed before June 3, 1977 for 504 or before January 26, 1992, for ADA where other alternative methods are effective in making programs and activities accessible so long as priority consideration is given to offering the services in the most integrated setting appropriate.

One example of an alternative method in a school would be the relocation of classes, activities, or services to an accessible site. Facility alteration or new construction is required to achieve program accessibility only if sufficient relocation of classes, activities, or services cannot be housed in an existing facility. In meeting the objective of program accessibility, the school must take precautions not to isolate or concentrate students with disabilities in settings away from students without disabilities.

The regulation requires that all new construction begun after June 3, 1977, for 504 or January 26, 1992, for ADA, as well as alterations to existing facilities, must be designed and constructed so as to make facilities accessible and usable by individuals with disabilities.

SUBPART D: REQUIREMENTS FOR PRESCHOOL, ELEMENTARY, MIDDLE LEVEL, JUNIOR HIGH, SECONDARY EDUCATION, AND ADULT EDUCATION PROGRAM.

South Dakota preschool, elementary, middle level/junior high, and secondary programs must take into account the needs of qualified persons with disabilities in determining the aid, benefits, or services to be provided under these programs or activities.

The school must provide a free appropriate public education to students with disabilities in its jurisdiction who are eligible under Section 504/ADA. Instruction must be individually designed to meet the needs of those students as adequately as the needs of students without disabilities. **This standard of what is “appropriate” differs from the IDEA “appropriate” standard, which requires the school to design a program reasonably calculated to confer educational benefit. An appropriate education under Section 504/ADA requires that the services be effective and fair.**

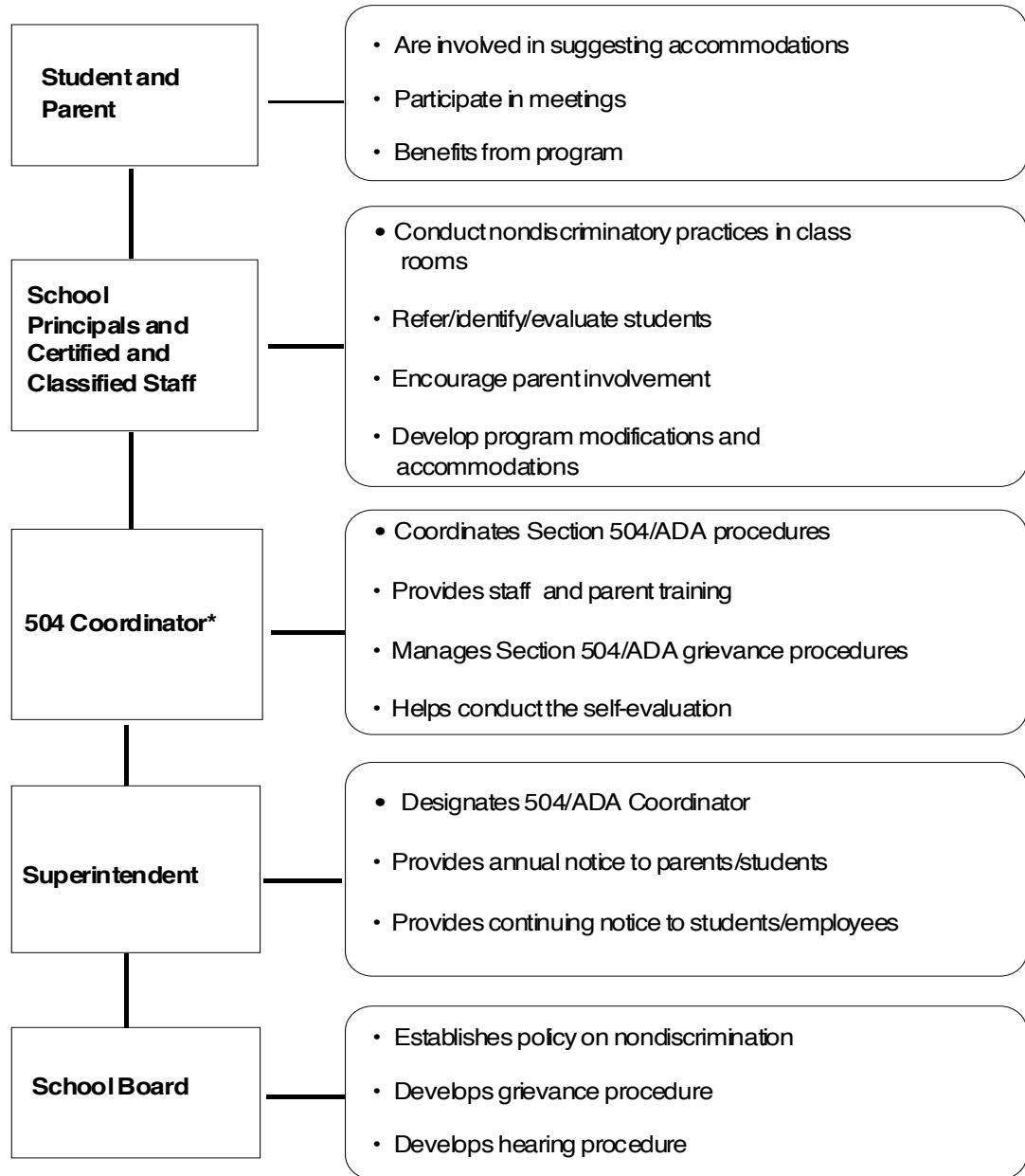
Although Section 504/ADA does not require schools to develop an Individual Education Program with annual goals, it is required that the school provide written documentation for each student eligible under Section 504/ADA. If the Teacher Assistance Team (pre-referral) suspects a need for accommodation, a referral should be made, evaluations conducted, and possible eligibility determined by a team knowledgeable about the student. If the student is eligible, the team might develop a Section 504 Accommodation Plan.

The quality of educational services provided to individuals with disabilities must be equivalent to the services provided to individuals without disabilities. Teachers, administrators, staff, and parents should receive ongoing training in the instruction of individuals with disabilities and be knowledgeable about the disability, appropriate materials, and equipment. The Section 504/ADA Coordinator will be responsible to develop and implement staff and parent training.

RESPONSIBILITY

It must be emphasized that Section 504/ADA falls under the *management of general education*. The figure on the next page illustrates some obligations of general education under Section 504/ADA and their relationship with school personnel roles. The school staff and parents should collaborate to help guarantee that students are provided accommodations through general education. The exception to this standard is a student who has been determined eligible as having a disability under the Individuals with Disabilities Education Act (IDEA). Such a student could receive special education services under IDEA and accommodations required under Section 504/ADA. Many schools will include the Section 504 accommodations on the IEP rather than developing two separate documents.

RESPONSIBILITIES IN THE SECTION 504 PROCESS



* Parents and school personnel must be notified as to who is the 504/ADA coordinator.

SUBPART E: POSTSECONDARY EDUCATION

Listed below are some responsibilities of postsecondary programs that receive federal funds:

Admissions

1. An individual with a disability cannot be denied admission to a program solely on the basis of his/her disability. Recruitment efforts by a postsecondary school must avoid any discrimination against individuals who have a disability.
2. A test cannot be used that discriminates against an individual with disabilities. Each test should be validated and normed for the population to which it is given and for the purpose it is intended.
3. The school must provide internal and external public notice stating the program does not discriminate on the basis of a disability.

Treatment of students

1. No qualified student with a disability can be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination in any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education program or activity.
2. A postsecondary program may not exclude any qualified student from any course of study or other part of its education program on the basis of a disability.

Academic adjustments

1. Adjustments to academic requirements may be necessary to ensure that such requirements do not discriminate on the basis of disability.
2. Modifications may include changes in the length of time permitted for the completion of a degree, substitution of specific courses required for the completion of the degree, and accommodations in the manner in which specific courses are conducted.
3. Academic adjustments could include tape recorders in classrooms, guide dogs or service dogs in campus buildings, and special arrangements for administering examinations.
4. Auxiliary aids could include taped texts, interpreters, or other effective methods of making orally delivered materials available to students with hearing impairment; readers in libraries for students with visual impairments; classroom equipment adapted for use by students with manual impairments; and other similar services and actions.
5. The school should provide comparable, convenient, and accessible housing to individuals with disabilities at the same cost as to others.

Financial and employment assistance

1. In providing financial assistance for qualified individuals with disabilities, a school may not provide less assistance than is provided to nondisabled persons, limit eligibility for assistance, or otherwise discriminate.
2. A school that assists any district, organization, or person in providing employment opportunities to any of its students shall ensure that such employment opportunities are made available to all students.

Nonacademic services

1. A school that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics should provide an equal opportunity to participate in these activities to a qualified individual with a disability.
2. A school that provides personal, academic, or vocational counseling, guidance, or placement services to students should make these services available to individuals with disabilities.
3. A school that provides assistance to fraternities, sororities, or similar organizations should ensure that the membership practices of such organizations do not permit discrimination.

PROCEDURAL REQUIREMENTS

PROCEDURAL REQUIREMENTS OF SECTION 504/ADA

To be in compliance with Section 504/ADA, schools must have policies and procedures in place for the following:

1. Provide **written assurance** of nondiscrimination whenever the school receives federal money (e.g., on the LEA application). [34 CFR § 104.5(a)] (*see Page 19*)
2. Designate an **employee to coordinate compliance** with Section 504/ADA (if there are more than 15 employees). [34 CFR § 104.7(a)] (*see Page 19*)
3. Provide **grievance procedures** to resolve complaints of discrimination (if more than 15 employees). This does not apply to denial of employment. [34 CFR § 104.7(b)] (*see Page 19–21*) Mediation, complaint process, and due process hearings (*Pages 22–23*)
4. Provide **notice to students and parents**. A separate notice should be available for employees, unions, and professional organizations of nondiscrimination in admission or access to, treatment at, and employment in its programs or activities (if more than 15 employees). Notice must be included in student/parent handbook. [34 CFR §104.8] (*see Page 23*)
5. The school will **Identify and locate qualified students with disabilities** within their jurisdiction. (*see Page 24*)
6. **Annually notify persons with disabilities** and their parents or guardians of the school's responsibilities under Section 504/ADA. [34 CFR § 104.32(b)] (*see Page 25*)
7. Provide parents or guardians with **procedural safeguards**: (*see Page 26*)
 - a. Notice of their rights
 - b. An opportunity to review relevant records
 - c. An impartial hearing. It is important that parents or guardians be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of individuals with disabilities [34 CFR § 104.36].
 - d. Review of procedures. Compliance with the procedural safeguards under special education is one way of meeting these requirements.
8. **Conduct a self-evaluation** of the school facilities, programs, and policies to ensure that discrimination is not taking place. [34 CFR § 104.6 (c)] This study should be conducted with the assistance of interested persons, including persons with disabilities. (*see Pages 27*)

The next few pages will clarify these procedures for complying with the procedural requirements under Section 504/ADA.

PROCEDURE ONE: WRITTEN ASSURANCE OF NONDISCRIMINATION

Whenever a school applies for State or federal monies, it must assure that it does not discriminate on the basis of race, sex, color, national origin, age, or disability. This requirement is done routinely by all schools.

PROCEDURE TWO: SECTION 504 COORDINATOR

The general provisions of Section 504/ADA, together with other federal nondiscrimination laws, require the designation of a person to coordinate the school's efforts to comply with these laws. Coordination activities could include some or all of the following:

Suggested Responsibilities of the Section 504/ADA Coordinator

- Ensure nondiscriminatory educational practices.
- Establish and monitor a Section 504/ADA referral/identification/review process.
- Maintain data on Section 504/ADA referrals.
- Conduct staff and parent awareness and training activities concerning Section 504/ADA requirements.
- Implement Section 504/ADA grievance procedures.
- Monitor Section 504/ADA budget.
- Consult with the Special Education Coordinator.
- Serve as a school liaison with the State Section 504/ADA Coordinator.
- Serve as the school liaison with the regional Office for Civil Rights.

The Section 504/ADA Coordinator could be someone already employed by the school. A general education staff member or school counselor who is knowledgeable about federal laws and regulations would be preferred.

PROCEDURE THREE: SCHOOL GRIEVANCE PROCEDURES

Sample School Grievance Process

Section I

If any person believes that the school or any of the school's staff have inadequately applied the regulations of (1) Title VI of the Civil Rights Act of 1964, (2) Title IX of the Education Amendment Act of 1972, (3) Section 504 of the Rehabilitation Act of 1973, or (4) the Americans with Disabilities Act, he/she may bring forward a grievance to the school's Section 504/ADA coordinator. It should be understood by the individual(s) involved that a complaint can be made to the Office for Civil Rights without going

through the school's grievance procedures. The grievance procedures are to provide for a prompt and equitable resolution of a complaint.

Section II

The school 504 coordinator, on request, will provide a copy of the school's grievance procedure and investigate all complaints in accordance with this procedure. The grievance procedure should include a statement that a copy of each of the acts and the regulations on which this notice is based may be found in the coordinator's office.

The person who believes he/she may have been discriminated against based on disability shall discuss the grievance and give the completed grievance form to the school Section 504/ADA coordinator who shall in turn investigate the complaint and reply with an answer to the complainant.

Step 1

A written grievance form signed by complainant shall be submitted to the school Section 504/ADA Coordinator. The coordinator shall further investigate the matters of grievance and reply in writing to the complainant within 10 business days.

Step 2

If the complainant wishes to appeal the decision of the school Section 504/ADA Coordinator, he/she may submit a signed statement of appeal to the district administrator within 10 business days after receipt of the coordinator's response. The coordinator and superintendent cannot be the same individual. The superintendent shall meet with all parties involved, formulate a conclusion, and respond in writing to the complainant within 10 business days.

Step 3

If the complainant remains unsatisfied, he/she may appeal through a signed written statement to the school board of education within 10 business days of his/her receipt of the district's response in Step Two. In an attempt to resolve the grievance, the board shall meet with the concerned parties and their representative within 15 days of the receipt of such an appeal. A copy of the board's disposition of the appeal shall be sent to each concerned party within 10 business days of this meeting.

Step 4

The complainant may file a complaint with the Office for Civil Rights at any time before or during the grievance procedures.

**SECTION 504/ADA DISCRIMINATION
SCHOOL GRIEVANCE FORM**

Name: _____ Date: _____
Student: _____ Title: _____
Address: _____
_____ Phone: _____

1. Summary of school grievance—What is the problem?

2. How can the problem be resolved?

Please describe any corrective action you wish to see taken with regard to the possible violation. You may also provide other information relevant to this grievance.

If others are affected by the possible violation, please give their names and/or positions: _____

Signature of Parent

Date

Signature of Section 504 Coordinator

Date

MEDIATION

Most of the time, parents and school staff agree on issues regarding evaluation, eligibility, program, and placement of students with disabilities. However, there are times when disagreement occurs.

Conflict is often inevitable, but it need not produce negative results. If the parent and school are unable to resolve a conflict concerning a student with a disability, then mediation is an available alternative to a long and expensive due process hearing.

Mediation is completely voluntary. It should not interfere with any procedural safeguards, including a request for a due process hearing or filing a complaint with OCR. **Mediation costs are the responsibility of the school.**

The mediator is a neutral third party and, therefore, has no power to make a decision regarding the dispute. He or she will listen to the views of each party and will assist in developing an acceptable solution to the problem. The mediator has been trained to handle Section 504 disputes.

A trained mediator works with both parties to guide them toward a mutually satisfactory solution in the best interest of the student. This occurs at a nonadversative meeting that is more structured than a parent-school conference but less formal than a due process hearing.

Parents and schools are encouraged to try mediation before relying on more formal procedures, such as the grievance procedures, complaints to OCR, or due process hearings.

OFFICE FOR CIVIL RIGHTS COMPLAINT PROCESS

An individual or an organization may file a complaint with the regional Office for Civil Rights (OCR). An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases, OCR will consider complaints where more than 180 days have elapsed.

Anyone wishing to file a formal complaint with OCR should submit in writing the following information in a letter or on the Discrimination Complaint Form available from OCR regional offices:

1. Name and address (a telephone number where they may be reached during business hours is helpful but not required)
2. A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required)

3. The name and location of the institute that committed the alleged discriminatory act(s)
4. A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, sex, color, national origin, age or disability)

A school may not retaliate against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation.

PROCEDURE FOUR: GENERAL NOTICE TO STUDENTS, PARENTS, EMPLOYEES, AND OTHER INDIVIDUALS

The school must provide an ongoing notice of non-discrimination.

Example

SECTION 504 OF THE REHABILITATION ACT AND AMERICANS WITH DISABILITIES ACT

NOTICE OF NON-DISCRIMINATION

Applicants for admission and employment, students, parents, persons with disabilities, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the _____ are hereby notified that this school does not discriminate on the basis of race, sex, color, national origin, age, or disability in admission or access to, or treatment or employment in, its programs and activities. Any person having inquiries concerning the school's compliance with the regulations implementing Title VI, Title IX, the Americans with Disabilities Act (ADA), or Section 504 is directed to contact

who has been designated by the school to coordinate efforts to comply with the regulations regarding nondiscrimination.

Recommendations for notice dissemination

- Staff, parent, and student handouts
- Letterheads
- Staff workrooms
- Bulletin boards
- Included on professional contracts
- Included on job announcements
- Annual mailing to staff
- School Web site

PROCEDURE FIVE: LOCATE AND IDENTIFY

The school shall maintain a continual program to find unserved students who might qualify for special education or Section 504/ADA services. To encourage the use of services and ongoing assistance at the earliest age possible, the following methods could be used to identify unserved students:

- Utilize the existing special education student find process; just add Section 504 language to the school's notice and announcements.
- A series of spot announcements on all local news media
- A series of posters to be placed in post offices, city hall, schools, and other public buildings
- Distribution of a referral form to such public and private agents as hospital administrators, public health officers, social welfare offices, private medical practitioners, public nursery schools, and /or childcare and Head Start directors. Referrals should be made to the district special education coordinator, or Section 504/ADA Coordinator, for appropriate action.

It is recommended that the school combine the special education and Section 504 Child Find procedures. Costs should be shared between special and general education budgets.

PROCEDURE SIX: ANNUAL NOTICE TO INDIVIDUALS WITH DISABILITIES AND PARENTS

The school must provide a form to individuals with disabilities regarding the school's obligations under Section 504/ADA.

Example

NOTICE

PROGRAMS FOR STUDENTS WITH DISABILITIES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT OF 1990

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prohibits discrimination against persons with a disability in any program receiving federal financial assistance. Section 504/ADA defines a person with a disability as anyone who

Has a mental or physical impairment that substantially limits one or more major life activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

The school has the responsibility to provide adjustments, modifications, and necessary services to eligible individuals with disabilities.

The school acknowledges its responsibility under Section 504/ADA to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability shall knowingly be permitted in any program or practice in the school.

Recommendations for notice dissemination

- Upon referral to parents
- School Web site
- Letterheads
- Staff workrooms
- Bulletin boards
- Included on professional contracts
- Included on job announcements
- Annual mailing to staff

PROCEDURE SEVEN: PARENT AND STUDENT RIGHTS UNDER SECTION 504/ADA

The school must provide certain procedural safeguards to parents of students with disabilities.

Example

The following is a description of student and parent rights under Section 504 and other federal laws. The intent of the law is to keep you fully informed concerning decisions about your student and to inform you of your rights if you disagree with any of these decisions.

You have the right to the following:

1. Have your student take part in and receive benefits from public education programs without discrimination based on a disability.
2. Receive notice with respect to identification, evaluation, program, or placement of your student.
3. Have your student receive a free appropriate public education. This includes the right to be educated with other students to the maximum extent appropriate. It also includes the right to have the school make reasonable accommodations to allow your student an equal opportunity to participate in school and school-related activities.
4. Have your student educated in facilities and receive services comparable to those provided students without disabilities.
5. Have evaluation, educational, and placement decisions made based on a variety of information sources and by individuals who know the student, disability, evaluation data, and placement options.
6. Give your student an equal opportunity to participate in nonacademic and extracurricular activities offered by the school.
7. Examine all relevant records relating to decisions regarding your student's identification, evaluation, educational program, and placement.
8. File a local grievance with your school if you feel your student is being discriminated against because of his or her disability.
9. Request a due process hearing to help resolve issues with the school.
10. File a formal complaint with the regional Office for Civil Rights.

PROCEDURE EIGHT: SELF-EVALUATION

A self-evaluation to determine possible discrimination involving school facilities, programs, activities, and policies is a requirement of both Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Any school that employs 15 or more employees shall conduct such an evaluation and develop a transition plan that outlines how the school will eliminate any form of discrimination.

The self-study should be on file and available for public inspection.

The following are key considerations when conducting the self-evaluation:

- Evaluate facilities, programs, and policies.
- Involve other individuals, including persons with disabilities.
- Develop a Section 504/ADA transition plan that outlines any modifications that will be necessary. This plan identifies facilities, programs, and policies that could be discriminatory and how the school intends to solve the problems.
- Modify any policies, facilities, or practices that do not meet the requirements of Section 504 or ADA, after consultation with others, including persons with disabilities.
- Take appropriate remedial steps to eliminate the effects of any discrimination resulting from policies and practices.
- Keep a copy of the self-evaluation on file for public inspection.
- Conduct periodic reevaluations as needed.
- Ensure all new policies are nondiscriminatory.
- Ensure all new facilities are accessible for individuals with disabilities.

Schools should request comprehensive instructions and forms to conduct a self-assessment from the Office for Civil Rights.

SECTION 504 ELIGIBILITY

SECTION 504 ELIGIBILITY CRITERIA

The following is the eligibility criteria for a student to receive accommodations under Section 504.

A person may be considered disabled under the definition of Section 504/ADA if the individual meets the following requirements:

1. Has a mental or physical impairment that substantially limits one or more of such person's major life activities

“Major life activities” include functions such as

- caring for one's self
- walking
- seeing
- speaking
- learning
- performing manual tasks
- hearing
- breathing
- working

2. Has a record of such an impairment.
3. Is regarded as having such an impairment.

The second and third prongs of the definition only become a factor if discrimination has occurred because of the “record” or “history” or is regarded as having an impairment

If the school has reason to suspect that because of a disability, a student needs special accommodations in the general educational environment in order to have equally effective participation in the school program, the school must notify the parent of an individual evaluation, evaluate the student, and develop and implement a plan for the delivery of all necessary educational accommodations.

Requirements for the evaluation and placement process are determined by the type of disability suspected and the type of services needed by the student. The evaluation must be sufficient to assess the nature and extent of the educational impact of the disability so that appropriate educational services can be determined. The team knowledgeable about the student makes the decision based on evaluation data. Identification of services needed must be made by a group of persons knowledgeable about the student.

Decisions about Section 504/ADA eligibility must be documented in the student's Section 504/ADA file and reviewed at least yearly and whenever any member of the team feels it is necessary. A case manager should be assigned to complete and manage

each Section 504/ADA student file. A student's program must be provided in the least restrictive environment, most likely the general education classroom.

Under Section 504/ADA, parents or guardians must be provided with notice of any action that changes the identification, evaluation program, or placement of their student. Written consent would be considered a **best practice**. The parents should be included in the evaluation, eligibility, and placement process. Parents or guardians have the right to file a grievance, request mediation, ask for a due process hearing, or call the Office for Civil Rights if they disagree with the school.

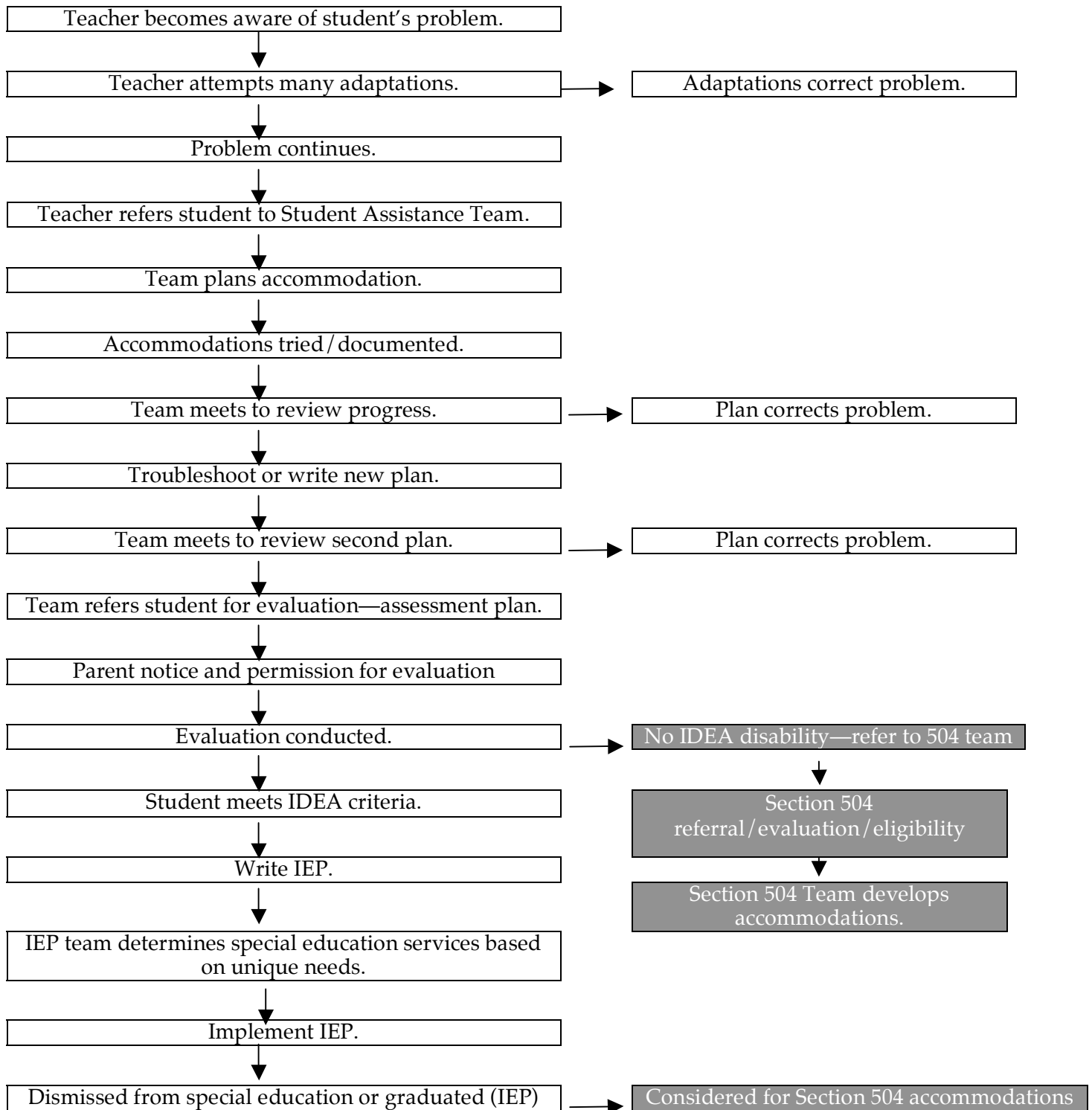
— Best Practice —
*Parent participation should always be encouraged
throughout the Section 504/ADA process.*

RED FLAGS FOR CONSIDERING POSSIBLE ELIGIBILITY AND ACCOMMODATIONS UNDER SECTION 504/ADA

1. When a **parent** frequently expresses a concern about the student's performance
2. When **suspension or expulsion** is being considered for any student
3. When **retention** is being considered
4. When a student shows a pattern of **not benefiting from classroom instruction**
5. When a student returns to school after a **serious illness or injury**
6. When a student is **referred for evaluation**, but it is determined not to do an evaluation under the **IDEA**
7. When a student is evaluated and **does not qualify for special education** services under the **IDEA**
8. When a student **exhibits a chronic health condition**
9. When a student has been identified as having **attention deficit disorder (ADD)** or **attention deficit hyperactivity disorder (ADHD)**
10. When a student is identified as **"at risk"** or exhibits the potential for dropping out of school
11. When a **disability** of any kind is known or suspected

The following chart is a suggested evaluation and eligibility Section 504 process:

PROCESS FOR ELIGIBILITY DETERMINATION



SECTION 504 PROCESS

SUGGESTED PROCESS FOR DETERMINING SECTION 504 SERVICES

STEP 1—GENERAL EDUCATION INTERVENTIONS

- a) If a student experiences educational difficulties, a Student Assistance Team meets to discuss the concerns.
- b) The team suggests intervention strategies to help correct the difficulties. The primary function of the team is to offer assistance to teachers.
- c) If the strategies are unsuccessful, the team can make a referral for evaluation to Section 504/ADA, special education, or Title I.

STEP 2 —REFERRAL

- a) Referrals are accepted from parents and /or the Student Assistance Team.
- b) The presenting problem(s) and previous remedies are considered and reviewed. The summary should include all current information and recommendations.

STEP 3 —NOTIFICATION

The school notifies the parents or guardians, in writing, of the school's reason and intent to conduct an evaluation. The notice should include a description of the evaluation and of procedural safeguards.

STEP 4 —WRITTEN CONSENT

Even though Section 504/ADA does not require written consent before the initial evaluation, consent should always be considered a **best practice**.

STEP 5—EVALUATION

The school evaluates a student suspected of having a disability before making an initial provision for services or any subsequent, significant change in his or her services.

STEP 6 —ELIGIBILITY

Section 504/ ADA Team—a recommended strategy is to use the student assistance team as the Section 504/ ADA Team. The team meets and analyzes the evaluation data to determine if the individual has a mental or physical impairment that substantially impairs a major life activity and impacts education.

STEP 7 —WRITTEN CONSENT

Even though Section 504/ ADA does not require written consent before the initial service, consent should always be considered a **best practice**.

STEP 8 —SERVICES

The Section 504 Team develops an accommodation plan to be implemented in the general education environment. Appendix B contains suggested Section 504 accommodation plans.

STEP 9 —IMPLEMENTATION

- a) The school staff makes the necessary accommodations/services to allow for the student's disability. Parents should be consulted and given opportunity for input regarding the accommodations.
- b) The accommodations and/or services are implemented.

STEP 10 —REVIEW

Each student's accommodations and/or services are reviewed periodically.

— Best Practice —

The team should review the accommodations at least annually.

SECTION 504

ACCOMMODATIONS/SERVICES

The following is a list of possible accommodations for eligible students served under Section 504. Each case must be considered based upon the unique needs of the student.

ENVIRONMENTAL STRATEGIES

- Provide a structured learning environment.
- Adjust class schedules.
- Provide classroom aides and note takers.
- Modify nonacademic times, such as lunch room and recess.
- Modify physical education.
- Change student seating.
- Provide use of a study carrel.
- Alter location of personal or classroom supplies for easier access or to minimize distraction.

ORGANIZATIONAL STRATEGIES

- Modify test delivery.
- Use tape recorders, computer-aided instruction, and other audiovisual equipment.
- Select modified textbooks or workbooks.
- Tailor homework assignments.
- Use one-to-one tutors.
- Provide peer tutoring.
- Set time expectations for assignments.
- Provide tests in segments so that the student finishes one segment before receiving the next part.
- Highlight main ideas and supporting details in the book.

BEHAVIOR STRATEGIES

- Use behavioral management techniques.
- Implement behavioral / academic contracts.
- Utilize positive reinforcements (rewards).
- Utilize negative reinforcements (consequences).
- Confer with the student's parents and other teachers.
- Establish a home / school communication system for behavior monitoring.
- Post rules and consequences for classroom behavior.
- Write a contract for student behavior.
- Offer social reinforcers (e.g., praise) for appropriate behavior.
- Establish daily / weekly progress report for the student.
- Implement self-recording of behaviors.

PRESENTATION STRATEGIES

- Tape lessons for the student.
- Provide photocopied material for extra practice (e.g., outlines, study guides).
- Require fewer drill and practice activities.
- Give both oral and visual instructions for assignments.
- Vary the method of lesson presentation:
 - a. lecture
 - b. small groups
 - c. large groups
 - d. audio visuals (e.g., filmstrips, study prints)
 - e. peer tutors or cross-age tutors (e.g., take notes, monitor assignments, read aloud, listen)
 - f. demonstrations
 - g. experiments
 - h. simulations
 - i. games
 - j. one-to-one instruction with other adult

- Provide for oral testing.
- Ask student to repeat directions/assignments to ensure understanding.
- Arrange for a mentor to work with student in his or her interest area or area of greatest strength.

METHODOLOGY STRATEGIES

- Repeat and simplify instructions about in-class and homework assignments.
- Supplement oral instructions with visual instructions.
- Change instructional pace.
- Change instructional methods.

CURRICULUM STRATEGIES

- Assess whether student has the necessary prerequisite skills. Determine whether materials are appropriate to the student's current interest and functioning levels.
- Utilize supplementary materials.
- Implement study skill strategies (survey, read, recite, review). Introduce definition of new terms/vocabulary and review to check for understanding.
- Limit amount of material presented on a single page.
- Provide a sample or practice test.
- Be aware of student's preferred learning style and provide appropriate instruction/materials.

100 EFFECTIVE EDUCATIONAL ACCOMMODATIONS

1. Provide study carrels.
2. Use room dividers.
3. Provide headsets to muffle noise.
4. Seat student away from doors/windows.
5. Seat near model (student or teacher).
6. Provide time-out area.
7. Rearrange student groups (according to instructional needs, role models, etc.).
8. Group for cooperative learning.

9. Vary working surface (e.g., floor or vertical surface such as blackboards).
10. Simplify / shorten directions.
11. Give both oral and written directions.
12. Have student repeat directions.
13. Have student repeat lesson objective.
14. Ask frequent questions.
15. Change question level.
16. Change response format (e.g., from verbal to physical; from saying to pointing).
17. Provide sequential directions (label as first, second, etc.).
18. Use manipulatives.
19. Alter objective criterion level.
20. Provide functional tasks (relate to student's environment).
21. Reduce number of items on a task.
22. Highlight relevant words / features.
23. Use rebus (picture) directions.
24. Provide guided practice.
25. Provide more practice trials.
26. Increase allocated time.
27. Use a strategy approach.
28. Change reinforcers.
29. Increase reinforcement frequency.
30. Delay reinforcement.
31. Increase wait time.
32. Use physical warm-up exercises.
33. Use specific rather than general praise.
34. Have a peer tutor program.
35. Provide frequent review.
36. Have student summarize at end of lesson.
37. Use self-correcting materials.
38. Adapt test items for differing response modes.
39. Provide mnemonic devices.
40. Provide tangible reinforcers.
41. Use behavioral contracts.
42. Establish routines for handing work in, heading papers, etc.
43. Use timers to show allocated time.
44. Teach self-monitoring.

45. Provide visual cues (e.g., posters, desktop number lines, etc.).
46. Block out extraneous stimuli on written material.
47. Tape-record directions.
48. Tape-record student responses.
49. Use a study guide.
50. Provide critical vocabulary list for content material.
51. Provide essential fact list.
52. Use clock faces to show classroom routine times.
53. Use dotted lines to line up math problems or show margins.
54. Provide transition directions.
55. Assign only one task at a time.
56. Provide discussion questions before reading.
57. Use word markers to guide reading.
58. Alter sequence of presentation.
59. Enlarge or highlight key words on test items.
60. Provide daily and weekly assignment sheets.
61. Post daily/weekly schedule.
62. Use graph paper for place value or when adding/subtracting two digit numbers.
63. Provide anticipation cues.
64. Establish rules and review frequently.
65. Teach key direction words.
66. Use distributed practice.
67. Provide pencil grips.
68. Tape paper to desk.
69. Shorten project assignments into daily tasks.
70. Segment directions.
71. Number (order) assignments to be completed.
72. Change far-point to near-point material for copying or review.
73. Put desk close to blackboard.
74. Incorporate currently popular themes/characters into assignments for motivation.
75. Repeat major points.
76. Use physical cues while speaking (e.g., 1, 2, 3, etc.).
77. Pause during speaking.
78. Use verbal cues (e.g., "Don't write this down," "This is important").
79. Change tone of voice, whisper, etc.
80. Use an honor system.
81. Collect notebooks weekly (periodically) to review student notes.

82. Reorganize tests to go from easy to hard.
83. Color code place value tasks.
84. Use self-teaching materials.
85. Do only odd or even numbered items on a large task sheet.
86. Use a primary typewriter or large print to create written material.
87. Provide organizers (e.g., cartons/bins) for desk material.
88. Teach varied reading rates (e.g., scanning, skimming, etc.).
89. Provide content/lecture summaries.
90. Use peer-mediated strategies (e.g., "buddy system").
91. Call student's name before asking a question.
92. Use extra spaces between lines of print.
93. Color code materials/directions.
94. Use raised-line paper.
95. Provide calculators.
96. Circle math computation sign.
97. Use hand signals to cue behavior (e.g., attention, responding).
98. Establish a rationale for learning.
99. Use advance organizers.
100. Help students to develop their own learning strategies.

EXAMPLES OF ELIGIBLE STUDENTS

Accommodations are determined by the Section 504 team and based upon the student's unique needs.

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)
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<p><i>EXAMPLE: The student frequently misses school and does not have the strength to attend a full day. This student has a record of a disability that substantially limits the life activities of learning and working.</i></p>

POSSIBLE ACCOMMODATIONS

- Apply universal precautions.
- Administer medications as prescribed.
- Adjust attendance policies.
- Adjust schedule or shorten day.
- Provide rest periods.
- Adapt physical education curriculum.
- Establish routine communication with health professionals, school nurse, and home.
- Develop health care and emergency plan.
- Meet with doctor, parents, teachers, and administrators.
- Provide two-way audio/video link between home and classroom.
- Arrange for an adult tutor at school or home.
- Modify assignments and tests.
- Provide an extra set of textbooks for home.
- Provide staff training on confidentiality.
- Provide education and support for peers regarding issues of death and dying.
- Provide transportation to and from school.

- Tape books or provide a personal reader.
- Provide a home computer with e-mail.
- Arrange for a support group.
- Provide employment transitions for secondary students.
- Develop supportive community attitudes regarding the school districts' need to educate students who are HIV/AIDS positive.
- Develop and promote nondiscriminatory classroom climate and supportive student attitudes.
- Promote the most supportive, least restrictive educational program for students with AIDS.
- Video-tape classroom teacher.
- Provide a peer support group to encourage communication.
- Furnish home and hospital care for extended periods of illness.
- Provide technology at home with a possible link to the school.

ALLERGIES

EXAMPLE: The student has severe allergic reactions to certain pollens and foods. The student is substantially limited to the major life activity of breathing.

POSSIBLE ACCOMMODATIONS

- Avoid allergy-causing substances: soap, weeds, pollen, and food.
- Inservice necessary persons: dietary people, peers, coaches, laundry for sports people (soap).
- Allow time for shots/clinic appointments.
- Use air purifiers.
- Adapt physical education curriculum during high pollen time.
- Improve room ventilation (when remodeling has occurred and materials may cause an allergy).

ARTHRITIS

EXAMPLE: A student with arthritis may have persistent pain, tenderness, or swelling in one or more joints. A student experiencing arthritic pain may require a modified physical education program. The student is substantially limited in the major life activity of walking and performing manual tasks.

POSSIBLE ACCOMMODATIONS

- Provide a rest period during the day.
- Accommodate for absences for doctor's appointments.
- Provide assistive devices for writing (e.g., pencil grips, non-skid surface, typewriter/computer, etc.).
- Modify physical education curriculum.
- Administer medication as prescribed.
- Arrange for assistance with carrying books, lunch tray, etc.
- Provide book caddy.
- Implement movement plan to avoid stiffness.
- Provide seating accommodations.
- Allow extra time between classes.
- Provide locker assistance.
- Provide modified eating utensils.
- Develop health care plan and emergency plan.
- Accommodate for writing with a computer and note-taking with a tape recorder.
- Make available access to wheelchair/ramps and school van for transportation.
- Modify recess time.
- Provide peer support groups.
- Arrange for instructional aide support.
- Arrange for someone else to take notes.
- Install handle style doorknobs (openers).
- Record lectures/presentations.

- Have teacher provide outlines of presentation.
- Issue velcro fasteners for bags, shoes, and coats.
- Provide a more comfortable style of desk.
- Adjust attendance policy, if needed.
- Provide a shorter school day.
- Furnish a warmer room and sit student close to the heat.
- Modify curriculum for the lab classes.
- Supply an extra set of books for home use and keep a set at school.
- Let student give reports in oral form rather than written.
- Assign someone to monitor plan.
- Begin an awareness program for other students.
- Monitor any special dietary considerations.
- Provide individual school counseling.
- Make any needed bathroom accommodations.

ASTHMA

EXAMPLE: A student has been diagnosed as having asthma. The disability limits the major life activity of breathing.

POSSIBLE ACCOMMODATIONS

- Modify activity level for recess, physical education, etc.
- Use air purifier or inhalants.
- Provide inhalant therapy assistance.
- Administer medication as prescribed.
- Provide homebound instruction.
- Remove allergens—e.g., hairspray, lotions, perfumes, pine trees, carpet.
- Make field trips non-mandatory and supplement with videos, audios, movies, etc.
- Accommodate medical absence; arrange transportation to home/clinic.
- Provide education to peers/teachers/others (bus drivers, cooks, etc.).

- Provide access to water, gum, etc.
- Provide curriculum considerations (science class, physical education, etc.)
- Develop health care and emergency plan.
- Provide easy compensation if individual misses an excessive amount of school.
- Have peers available to carry materials to and from classes (e.g., lunch tray, books).
- Provide rest periods.
- Make school health care needs known to appropriate staff.
- Modify field trip experiences.
- Provide indoor space for before and after school.
- Arrange for access to wheelchair for transition purposes.
- Have a locker location that is centralized and free of atmosphere changes.
- Reimburse parent for transportation costs or provide alternate transportation to and from school.
- Modify attendance policies.
- Modify certain learning activities.

<p align="center">ATTENTION DEFICIT DISORDER (ADD) AND ATTENTION DEFICIT HYPERACTIVITY DISORDER (ADHD)</p>

<p><i>EXAMPLE: The student does not meet eligibility requirements under IDEA as emotionally disturbed, learning disabled, or other health impaired. The student is diagnosed as having ADD by a doctor, and the disability limits the major life activity of learning.</i></p>
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POSSIBLE ACCOMMODATIONS

- Adjust student seating.
- Use simple, concise instructions.
- Provide a peer tutor/helper.
- Teach compensatory strategies.
- Administer medication as prescribed.
- Monitor stress and fatigue; adjust activities.
- Modify assignments.
- Change instructional pace.

- Provide supervision during transitions, disruptions, and field trips.
- Use study guides, organizing tools.
- Modify testing procedures.
- Provide school counseling.
- Initiate frequent parent communication.
- Establish a school/home behavior management program.
- Provide training for staff and parents.
- Have the student use an organizer—train in organizational skills.
- Establish a cue between teacher and student.
- Assign chores/duties around room/school.
- Modify environment to avoid distractions.
- Have student work alone or in a study carrel.
- Highlight required or important information/directions.
- Place assignments, directions on tape for auditory learner.
- Provide a checklist for student, parents, and/or teacher to record assignments or completed tasks.
- Use a timer to assist student to focus on given task or number of problems in time allotted—*stress* they need to be done correctly.
- Have student re-state or write directions/instructions.
- Allow student to respond in variety of different modes, e.g., may place answers for tests on tape instead of paper.
- Provide additional supervision to and from school.
- Modify student's work area with barriers.
- Inservice other students and staff about ADD/ADHD.
- Supply treats and rewards to promote behavior change.
- Prescribe physical activity, exercise, etc.
- Determine trigger points and prevent action leading to trigger points.
- Provide a sociometric/sociogram design, such as circle of friends.

CANCER
<i>EXAMPLE: The student has been diagnosed with cancer. The condition has become substantially limiting to the major life activities of learning and caring for one's self.</i>

POSSIBLE ACCOMMODATIONS

- Apply universal precautions.
- Adjust attendance policies.
- Limit number of classes taken; accommodate scheduling (breaks, etc.).
- Send teacher/tutor to hospital, as appropriate.
- Take whatever steps are necessary to accommodate student's involvement in extracurricular activities.
- Adjust activity level and expectations in classes based on physical limitations; don't require activities that are too physically taxing.
- Schedule daily monitoring or distribution of medications.
- Provide appropriate assistive technology.
- Have accommodations available for transportation to and from school and extracurricular activities.
- Provide dietary accommodations.
- Shorten day, arrange for home tutoring following treatment.
- Provide additional set of texts and assignments to hospital school.
- Tape lessons.
- Modify schedule to include rest breaks.
- Provide counseling; establish peer support group.
- Adapt physical education.
- Provide access as needed to school health services.
- Provide awareness training to staff and other students about cancer.
- Develop health care emergency plan to deal with getting sick at school.
- Furnish a peer tutor.
- Modify workload.
- Provide a separate bathroom.

- Provide an interactive computer/modem.
- Set up crisis teams.
- Instigate a free pass system from the classroom.
- Adjust the proficiency requirement.
- Provide individual school counseling.
- Begin friendship groups.
- Waive requirements for graduation.
- Provide teachers with counseling, emphasizing positive attitudes.

CEREBRAL PALSY
<p><i>EXAMPLE: The student has serious difficulties with fine and gross motor skills. A wheelchair is used for mobility. Cognitive skills are very good. The impairment substantially limits the major life activity of walking.</i></p>

POSSIBLE ACCOMMODATIONS

- Provide assistive technology devices (computer).
- Arrange for use of ramps and elevators.
- Allow for extra time between classes.
- Assist with carrying books, lunch trays, etc.
- Modify physical education curriculum.
- Monitor medication administration.
- Modify eating utensils.
- Initiate an emergency health care plan.
- Educate peers/staff about cerebral palsy.

EPILEPSY

EXAMPLE: The student is on medication for seizure activity but experiences several grand mal seizures each month. The condition substantially limits the major life activity of learning.

POSSIBLE ACCOMMODATIONS

- Train staff and students and prepare an emergency plan.
- Provide medical monitoring.
- Monitor and/or distribute medications.
- Change seating.
- Provide rest time and academic considerations following seizure.
- Arrange buddy system.
- Avoid using chalkboards.
- Provide an alternative recess.
- Provide clean rooms and avoid rooms with carpet.
- Provide education for peers and staff about epilepsy.
- Plan for academic make-up work so individual can catch up with peers.

OBESITY

EXAMPLE: A student has an eating disorder that may require special accommodations. Obesity may be considered a disability under Section 504 where it substantially impairs the major life activity of walking.

POSSIBLE ACCOMMODATIONS

- Provide special seating modifications.
- Make dietary modifications.
- Adjust meal schedule.
- Adapt physical education program.
- Allow extra time to get to classes.
- Educate peers about eating disorders.
- Adapt restrooms.

- Begin a peer support group.
- Allow more passing time.
- Ensure privacy for self-care.
- Provide school counseling.
- Provide for elevator privileges or other accommodations—for example, individuals in wheelchairs or with other disabilities that prevent them from using stairs.
- Arrange classroom furniture to provide room to negotiate and move around classroom seating.
- Arrange for peer counseling/helping to deal with esteem issues; also peer attitudes, teasing, etc.
- Address busing concerns to ensure room on buses for seating.
- Arrange to provide opportunities for the individual to participate in intramural events.
- Provide proper and safe transportation to and from school.
- Make any class location changes that may be needed.
- Promote out-of-school support.
- Adjust attendance policy.
- Obtain homebound services.

ORTHOPEDICALLY IMPAIRED
<i>EXAMPLE: The student has limited mobility and is confined to a wheelchair. The impairment substantially limits the major life activity of walking and caring for one's self.</i>

POSSIBLE ACCOMMODATIONS

- Develop a health care and emergency plan.
- Implement an adaptive physical education program.
- Provide physical therapy at school.
- Check facilities regarding physical accessibility.
- Provide extra time to get to class.
- Supply a set of textbooks for home.

- Provide a copy of class notes from a peer.
- Practice emergency exit from school building.

PARENT WITH HEARING IMPAIRMENT

EXAMPLE: A parent is hearing impaired and requests access to school-sponsored activities.

POSSIBLE ACCOMMODATIONS

- Provide an interpreter for all school events of expected participation.
- Make arrangements for home-school contacts/communication.
- Assist with locating peer or support groups.
- Use written notes for communication.
- Provide information on assistive technology.

CONDUCT DISORDER

EXAMPLE: The student exhibits poor peer interactions, has no friends, violates school rules, and isolates himself from group activities. The condition substantially limits the major life activity of learning.

POSSIBLE ACCOMMODATIONS

- Teach cooperative learning strategies within the classroom.
- Work with the family to implement home/school behavior plan.
- Provide school counseling.
- Set up a behavior management plan.
- Provide outings and real life experiences.
- Arrange for small group situations.
- Furnish a big brother/sister program.
- Provide extracurricular activities that interest the student.
- Monitor case management with human service.
- Pair with peer/tutor or role model.
- Provide peer support groups.

- Begin social skills instruction.
- Monitor and/or administer needed medications.

<h2 style="text-align: center;">STUDENT WITH SPECIAL HEALTH CARE NEEDS</h2>

<p><i>EXAMPLE: The student has a special health care problem and requires clean intermittent catheterization twice each day. The impairment substantially limits the major life activity of caring for one's self.</i></p>
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POSSIBLE ACCOMMODATIONS

- Apply universal precautions.
- Provide trained personnel to perform special procedures.
- Provide student with private location and time to perform procedures.
- Involve school nurse, parents, teachers, and staff.
- Allow preferential seating.
- Modify recess/PE/transportation.
- Modify classroom environment.
- Reevaluate/update periodically.
- Develop health care and emergency plan.
- If necessary, modify attendance policy.
- Establish health alert—every staff member involved with this student is aware of the health problem and of proper procedures.
- Provide a beeper/paging system for trained personnel.
- Make available homebound services/instruction.
- Begin a disability awareness program upon parent or student request.
- Provide school counseling.
- Arrange for trained personnel on school field trips.

TEMPORARILY DISABLED
<i>EXAMPLE: A student was in an automobile accident and will be homebound and/or hospitalized for a period of time. The student is considered temporarily disabled and is substantially limited in the major life activity of walking.</i>

POSSIBLE ACCOMMODATIONS

- Provide duplicate sets of texts.
- Provide assignments to hospital school.
- Tape lessons.
- Provide homebound instruction.
- Schedule periodic home-school meetings.
- Arrange for student to leave class early to get to next class.
- Provide access to elevators.
- Excuse from or adapt physical education program.
- Arrange for a friend to assist student in getting from class to class (support network).
- Provide a cordless telephone/beeper.
- Provide an interactive system—computer, e-mail, TV.
- Organize school counseling—trauma from accident.
- Provide physical therapy as necessary.
- Arrange for a tutor.
- Make transportation available.
- Arrange for proper medication.
- Arrange for peer notes.
- Provide help with getting lunch tray.
- Change seating arrangements to accommodate needs.
- Modify assignments depending on disability.
- Modify completion of assignment.
- Allow more time for test completion.
- Allow shortened days; adjust attendance policy.
- Address special accommodations of a wheelchair.

- Inservice staff and class and prepare an emergency care plan.
- Switch classrooms to main floor.
- Test verbally.
- Provide peer assistance for social involvement (keep student informed of social activities).
- Furnish life-skill assistance.

TOURETTE'S SYNDROME

EXAMPLE: The student exhibits inappropriate gestures and sounds in the classroom and hallways. The impairment substantially limits the major life activity of learning.

POSSIBLE ACCOMMODATIONS

- Pair with a neighboring student to prevent tardiness or absenteeism.
- Provide student with a means of catching up on missed lessons.
- Pair with a fellow student for study.
- Educate other students about associated outbursts.
- Arrange for frequent parental interaction.
- Administer medication as permitted.
- Begin a chip system.
- Provide supervision for transition activities.
- Modify assignments.
- Provide alternative workspace.
- Initiate time out.
- Cue student of inappropriate behavior.
- Provide peer inservice.
- Furnish supervision while student is acting out.
- Inservice teachers about different discipline procedures.
- Provide appropriate space for the student to act out episode.

TRAUMATIC BRAIN INJURY
<i>EXAMPLE: The student sustained a brain injury in an automobile accident. Many academic and motor skills have been lost from the injury. The condition substantially limits the major life activity of learning.</i>

POSSIBLE ACCOMMODATIONS

- Provide extended school year/time.
- Furnish memory/organizational aids.
- Provide alternative testing.
- Initiate tutoring programs.
- Develop an emergency plan.
- Inservice staff and peers about TBI.

QUESTIONS AND ANSWERS

SECTION 504 FREQUENTLY ASKED QUESTIONS

The following questions are frequently asked regarding Section 504 school issues. These opinions do not necessarily reflect the position of the Office for Civil Rights or the U.S. Department of Education.

1. Are all schools required to adhere to Section 504?

Yes. All schools that receive any federal financial assistance must comply with Section 504 of the Rehabilitation Act of 1973.

2. Are schools required to have a Section 504 coordinator?

Yes. If the school employs 15 or more employees, they must designate a person to coordinate 504 services and protections.

3. Are students who are covered under IDEA always eligible for Section 504 protections?

Yes. A student who receives special education could have their civil rights violated.

4. Are students who are covered under Section 504 always eligible for IDEA services?

No. A student must be evaluated and found to be eligible for special education services.

5. How are students determined to be eligible for accommodations under Section 504?

Basically, a student is eligible for services and protections if the student has a disability that is substantially limiting, impacts a major life activity, and impacts the student's education.

6. Where are most students who are eligible for Section 504 accommodations served?

Most students who are eligible for Section 504 are primarily served in general education classrooms with proper accommodations developed by the Section 504 team.

7. What are some examples of students not eligible for Section 504 accommodations?

Some examples could include

- Students with limited English proficiency
- Students who are pregnant
- Slow learners

The exception to the above would be if the student has a mental or physical impairment that substantially limits a major life activity and impacts education. For example, the slow learner could have a physical impairment and might qualify for Section 504 accommodations.

8. What is the purpose of Prong 2: Record of an Impairment and Prong 3: Regarded as Having an Impairment of the Section 504 definition?

The second and third prongs of the definition are used to bring to our attention the fact that we should not discriminate against a person with a disability because of their record or our perception of them. Only Prong 1 is used to determine eligibility, namely the student must have a mental or physical impairment that substantially limits a major life activity and impacts education. Eligibility is determined by a team knowledgeable about the student, including the parent.

9. Do schools have to evaluate students for possible Section 504 eligibility?

Yes. Schools do have to evaluate students before determining their eligibility for services and before deciding which educational accommodations are appropriate.

10. Do schools have to develop an IEP on students who are Section 504 eligible only?

No. An IEP is not required; however, it is suggested that schools develop a written 504 accommodation plan for the student.

11. Does a physician's diagnosis of ADD/ADHD automatically result in a student being eligible for Section 504?

A physician's diagnosis should be considered as one piece of documentation when evaluating the student. However, a physician's diagnosis alone does not automatically result in eligibility for Section 504 accommodations.

12. Do schools have to reevaluate students who are receiving Section 504 services and protections?

Schools are required to *periodically* evaluate students. Unlike IDEA, which requires a reevaluation every three years, Section 504 does not specify a time period.

13. Must schools get permission from parents before providing Section 504 services?

Schools are required to notify parents of an evaluation of the student for possible eligibility under Section 504.

14. Do schools have to label a student with a clinical category before providing protections under Section 504?

Unlike IDEA, Section 504 does not require a specific label before eligibility is established and accommodations are provided. It must be demonstrated that a physical or mental impairment exists that substantially limits a major life activity and impacts education.

15. Do students with disabilities have to be included in all school activities?

Yes. Students with disabilities must be given the opportunity to participate in activities that the school makes available for other students. They cannot be denied participation in extracurricular activities because of a disability.

16. Do schools have to make all of their buildings accessible to students with disabilities?

Programs and services must be readily accessible and useable for students with disabilities.

17. What can parents do if they are dissatisfied with the way schools are serving students eligible for Section 504 protections?

Parents should try to resolve differences with the school through open communication. A parent could even ask if mediation services are available. A parent does have the right to file a complaint with the U.S. Office for Civil Rights or request an impartial due process hearing if they believe their student's civil rights are being violated.

18. Can students served under Section 504 receive related services, such as a health care procedure?

If a team determines through evaluation that a student has a mental or physical impairment that substantially limits a major life activity and impacts education, a related service situation might apply in certain cases.

19. Is there any federal funding for schools to use to provide accommodations under Section 504?

No. There are no federal funds associated with serving eligible Section 504 students. Any costs for accommodations should be paid through the general education budget.

20. Can students who are eligible for Section 504, but not IDEA, be served in special education classrooms?

This would be a very rare situation. If a student is so severe they need to be served in a special education classroom, then maybe IDEA eligibility should be revisited.

21. If a student can be served under either special education or Section 504, which should the school attempt to use to serve the student?

The decision needs to be made by a team, including the parent. The student must meet the eligibility criteria, regardless of whether it is IDEA or Section 504.

22. Is Section 504 age-specific, like IDEA, which only deals with students through a certain age?

No. Section 504 also applies to post-secondary programs that receive federal funding.

23. Can schools use any tests that they want when evaluating students for Section 504 services?

While Section 504 is not specific about how to evaluate students for services, it does require that schools obtain information from a variety of sources and requires that nondiscriminatory teaching methods be used when students are evaluated using test instruments.

COMPARISON SECTION 504 AND SPECIAL EDUCATION

This section illustrates some of the basic similarities and differences between Section 504 and special education. Remember, Section 504 should be a general education management responsibility.